

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

OFFICE OF SPECIAL MASTERS

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ELIZABETH SHAPIRO,

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No. 99-552V

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Special Master Christian J. Moran

Petitioner,

*

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v.

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Filed: November 19, 2013

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SECRETARY OF HEALTH
AND HUMAN SERVICES,

*

Attorneys' fees and costs; award
in the amount to which
respondent does not object

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Respondent.

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Clifford J. Shoemaker, Shoemaker, Gentry & Knickelbein, Vienna, VA, for petitioner.

Heather L. Pearlman, United States Department of Justice, Washington, D.C., for respondent.

UNPUBLISHED DECISION ON FEES AND COSTS¹

Petitioner Elizabeth Shapiro filed an application for attorneys' fees and costs on November 3, 2013. After informal discussions, petitioner amended her request for attorneys' fees and costs. Respondent filed a stipulation of fact concerning attorneys' fees and costs on November 14, 2013. The Court awards the amount to which respondent does not object.

Petitioner alleged that a series of hepatitis B vaccinations caused her to develop thyroid disease and systemic lupus erythematosus ("SLE"). See Petition, filed Aug. 2, 1999. Petitioner failed to produce preponderant evidence to establish causation and a decision denying compensation was issued on April 27, 2011. 2011 WL 1897650, at *16 (Fed. Cl. Spec. Mstr.). On May 27, 2011, petitioner filed a motion for review of the undersigned's decision. The Court of Federal Claims issued an opinion on October 31, 2011, granting, in part, and denying, in part, petitioner's motion for review, and vacating part of undersigned's decision. 101 Fed. Cl. 532, 543. The case was remanded to the undersigned for further proceedings consistent with the Court's opinion. Id. On January 10, 2012, the undersigned issued a decision denying compensation. 2012 WL 273686, at *13. Petitioner's motion for review of the undersigned's decision and her motion for reconsideration of the denial of her SLE claim were denied. 105

¹ The E-Government Act of 2002, Pub. L. No. 107-347, 116 Stat. 2899, 2913 (Dec. 17, 2002), requires that the Court post this decision on its website. Pursuant to Vaccine Rule 18(b), the parties have 14 days to file a motion proposing redaction of medical information or other information described in 42 U.S.C. § 300aa—12(d)(4). Any redactions ordered by the special master will appear in the document posted on the website.

Fed. Cl. 353, 362 (2012). The Federal Circuit affirmed the Court's denial of petitioner's motions on May 8, 2013. 503 Fed. Appx. 952, at *1.

Even though compensation was denied, a petitioner who brings her petition in good faith and who has a reasonable basis for the petition may be awarded attorneys' fees and costs. See 42 U.S.C. § 300aa-15(e)(1). Here, counsel for petitioner spent time gathering medical records and filing affidavits for petitioner. Additionally, petitioner retained an expert who opined on her behalf in written reports and during a hearing. Petitioner's counsel successfully argued for the review of the undersigned's first decision denying compensation. Throughout the lengthy pendency of this case, petitioner's counsel acted in good faith and had a reasonable basis for proceeding. Thus, petitioner is eligible for an award of attorneys' fees and costs. Respondent does not contend that petitioner failed to act in good faith and with a reasonable basis for proceeding.

Petitioner seeks **\$220,583.53** in attorneys' fees and costs for petitioner's counsel. Additionally, petitioner filed a statement in compliance with General Order #9, stating that she incurred **\$162.42** while pursuing her claim. Respondent does not object to the amounts requested.

After reviewing petitioner's request, the Court awards the following:

1. **A lump sum of \$220,583.53 in the form of a check payable jointly to petitioner's attorney, Clifford J. Shoemaker, and petitioner, Elizabeth Shapiro, for attorney's fees and costs available under 42 U.S.C. § 300aa-15(e).**
2. **A lump sum of \$162.42 in the form of a check payable to petitioner, Elizabeth Shapiro, for her personal litigation costs.**

The court thanks the parties for their cooperative efforts in resolving this matter. The Clerk shall enter judgment accordingly.²

IT IS SO ORDERED.

s/Christian J. Moran
Christian J. Moran
Special Master

² Pursuant to Vaccine Rule 11(a), the parties can expedite entry of judgment by each party filing a notice renouncing the right to seek review by a United States Court of Federal Claims judge.